

1986—Subsec. (c). Pub. L. 99-641, amended subsec. (c) generally, substituting provisions relating to regulations to eliminate pilot status of program for commodity option transactions for provisions relating to commodity option transactions, pilot program and permanent authorization, conditions ending prohibition, and excepted persons.

1983—Subsec. (a)(B), (C). Pub. L. 97-444, §206(1), redesignated par. (C) as (B). Former par. (B), relating to transactions involving any commodity specifically set forth in section 2(a) of this title, prior to October 23, 1974, if such transactions were of the character of, or were commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", was struck out.

Subsec. (b). Pub. L. 97-444, §206(2), in revising section generally, struck out references to any transaction subject to provisions of subsection (a) of this section and to any commodity not specifically set forth in section 2(a) of this title, prior to October 23, 1974, and struck out "within one year after the effective date of the Commodity Futures Trading Commission Act of 1974 unless the Commission determines and notifies the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture that it is unable to prescribe such terms and conditions within such period of time:" after "such terms and conditions as the Commission shall prescribe".

Subsec. (c). Pub. L. 97-444, §206(3), inserted "With respect to any commodity regulated under this chapter and specifically set forth in section 2(a) of this title prior to October 23, 1974, the Commission may, pursuant to the procedures set forth in this subsection, establish a pilot program for a period not to exceed three years to permit such commodity option transactions. The Commission may authorize commodity option transactions during the pilot program in as many commodities as will provide an adequate test of the trading of such option transactions. After completion of the pilot program, the Commission may authorize commodity option transactions without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the documentation required under clause (1) of the first sentence of this subsection and the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal."

Subsec. (d)(1). Pub. L. 97-444, §206(4)(A), inserted ", other than a commodity specifically set forth in section 2(a) of this title prior to October 23, 1974," after "physical commodity".

Subsec. (d)(2). Pub. L. 97-444, §206(4)(B), inserted ", other than a commodity specifically set forth in section 2(a) of this title prior to October 23, 1974," after "subsection (b) of this section" in provisions preceding subpar. (A).

Pub. L. 97-444, §206(4)(C), inserted ", other than options on a commodity specifically set forth in section 2(a) of this title prior to October 23, 1974," after "The Commission may permit persons not domiciled in the United States to grant options under this subsection" in provisions following par. (2).

Subsec. (f). Pub. L. 97-444, §102, added subsec. (f).

1978—Subsec. (a). Pub. L. 95-405, §3(1), in provisions following par. (C) substituted "have been approved" for "not have been disapproved".

Subsec. (b). Pub. L. 95-405, §3(2), substituted "Senate Committee on Agriculture, Nutrition, and Forestry" for "Senate Committee on Agriculture and Forestry".

Subsecs. (c) to (e). Pub. L. 95-405, §3(3), added subsecs. (c) to (e).

1974—Subsec. (a). Pub. L. 93-463, §§103(a), 402(a), (b), (d), designated existing provisions as subsec. (a), in par. (B) of subsec. (a) as so designated inserted "if such transaction involves any commodity specifically set forth in section 2(a) of this title, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, and" and "option", and in provisions fol-

lowing par. (C), struck out provisions prohibiting a construction of this section or section 6b of this title which would impair any State law applicable to any transaction enumerated or described in this section or section 6b of this title and substituted "Commission" for "Secretary of Agriculture".

Subsec. (b). Pub. L. 93-463, §402(c), added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 203(b) of Pub. L. 102-546 provided that: "The Commission shall adopt the rules required by the amendment made under subsection (a) [amending this section] within two hundred and seventy days after the date of enactment of this Act [Oct. 28, 1992]."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-444 effective Jan. 11, 1983, see section 239 of Pub. L. 97-444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

§ 6d. Dealing by unregistered futures commission merchants or introducing brokers prohibited; duties in handling customer receipts; rules to avoid duplicative regulations

(a) Registration requirements; duties of merchants in handling customer receipts

It shall be unlawful for any person to engage as futures commission merchant or introducing broker in soliciting orders or accepting orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or derivatives transaction execution facility unless—

(1) such person shall have registered, under this chapter, with the Commission as such futures commission merchant or introducing broker and such registration shall not have expired nor been suspended nor revoked; and

(2) such person shall, if a futures commission merchant, whether a member or nonmember of a contract market or derivatives transaction execution facility, treat and deal with all money, securities, and property received by such person to margin, guarantee, or secure the trades or contracts of any customer of such person, or accruing to such customer as the result of such trades or contracts, as belonging to such customer. Such money, securities, and property shall be separately accounted for and shall not be commingled with the funds of such commission merchant or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held: *Provided, however*, That such money, securities, and property of

the customers of such futures commission merchant may, for convenience, be commingled and deposited in the same account or accounts with any bank or trust company or with the clearing house organization of such contract market or derivatives transaction execution facility, and that such share thereof as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle the contracts or trades of such customers, or resulting market positions, with the clearinghouse organization of such contract market or derivatives transaction execution facility or with any member of such contract market or derivatives transaction execution facility, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with such contracts and trades: *Provided further*, That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *Provided further*, That such money may be invested in obligations of the United States, in general obligations of any State or of any political subdivision thereof, and in obligations fully guaranteed as to principal and interest by the United States, such investments to be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

(b) Duties of clearing agencies, depositories, and others in handling customer receipts

It shall be unlawful for any person, including but not limited to any clearing agency of a contract market or derivatives transaction execution facility and any depository, that has received any money, securities, or property for deposit in a separate account as provided in paragraph (2) of this section,¹ to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the customers of such futures commission merchant.

(c) Rules to avoid duplicative regulation of dual registrants

Consistent with this chapter, the Commission, in consultation with the Securities and Exchange Commission, shall issue such rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations applicable to any futures commission merchant registered with the Commission pursuant to section 6f(a) of this title (except paragraph (2) thereof), that is also registered with the Securities and Exchange Commission pursuant to section 780(b) of title 15 (except paragraph (11) thereof), involving the application of—

(1) section 78h, section 780(c)(3), and section 78q of title 15 and the rules and regulations thereunder related to the treatment of customer funds, securities, or property, maintenance of books and records, financial reporting or other financial responsibility rules (as defined in section 78c(a)(40) of title 15), involving security futures products; and

(2) similar provisions of this chapter and the rules and regulations thereunder involving security futures products.

(Sept. 21, 1922, ch. 369, §4d, as added June 15, 1936, ch. 545, §5, 49 Stat. 1494; amended Pub. L. 90-258, §6, Feb. 19, 1968, 82 Stat. 27; Pub. L. 93-463, title I, §103(a), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 95-405, §4, Sept. 30, 1978, 92 Stat. 869; Pub. L. 97-444, title II, §207, Jan. 11, 1983, 96 Stat. 2302; Pub. L. 106-554, §1(a)(5) [title I, §123(a)(6), title II, §251(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A-407, 2763A-443.)

AMENDMENTS

2000—Pub. L. 106-554, §1(a)(5) [title II, §251(f)], designated first undesignated par. as subsec. (a), designated second undesignated par. as subsec. (b), and added subsec. (c).

Pub. L. 106-554, §1(a)(5) [title I, §123(a)(6)], inserted “or derivatives transaction execution facility” after “contract market” wherever appearing.

1983—Pub. L. 97-444, §207(1), inserted reference to introducing brokers in provisions preceding par. (1).

Par. (1). Pub. L. 97-444, §207(2), inserted “or introducing broker” after “futures commission merchant”.

Par. (2). Pub. L. 97-444, §207(3), inserted “if a futures commission merchant,” after “such person shall,”.

1978—Pub. L. 95-405 in par. (2) inserted provisions authorizing Commission to prescribe terms and conditions under which funds and property commingled and deposited as permitted by par. (2) may be commingled and deposited with other funds and property received by a futures commission merchant and required by Commission to be separately accounted for and treated as belonging to its customers.

1974—Pub. L. 93-463 substituted “Commission” for “Secretary of Agriculture” in pars. (1) and (2).

1968—Pub. L. 90-258 struck out from second proviso of first par. authorization for investment of customer funds in investment securities of the kind national banking associations may buy or in loans secured by negotiable warehouse receipts conveying or securing title to readily marketable commodities to the extent of the current loan value of such receipts and added second par., making it unlawful for any person, including a clearing agency of a contract market or any depository, to treat customer funds as belonging to any person other than the customer, respectively.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-444 effective 120 days after Jan. 11, 1983, or such earlier date as the Commission shall prescribe by regulation, see section 239 of Pub. L. 97-444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

¹ So in original. Probably means subsection (a)(2) of this section.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

§ 6e. Dealings by unregistered floor trader or broker prohibited

It shall be unlawful for any person to act as floor trader in executing purchases and sales, or as floor broker in executing any orders for the purchase or sale, of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or derivatives transaction execution facility unless such person shall have registered, under this chapter, with the Commission as such floor trader or floor broker and such registration shall not have expired nor been suspended nor revoked.

(Sept. 21, 1922, ch. 369, § 4e, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1495; amended Pub. L. 93-463, title I, § 103(a), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 102-546, title II, § 207(a), Oct. 28, 1992, 106 Stat. 3604; Pub. L. 106-554, § 1(a)(5) [title I, § 123(a)(6)], Dec. 21, 2000, 114 Stat. 2763, 2763A-407.)

AMENDMENTS

2000—Pub. L. 106-554 inserted “or derivatives transaction execution facility” after “contract market”.

1992—Pub. L. 102-546 amended section generally. Prior to amendment, section read as follows: “It shall be unlawful for any person to act as floor broker in executing any orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have registered, under this chapter, with the Commission as such floor broker and such registration shall not have expired nor been suspended nor revoked.”

1974—Pub. L. 93-463 substituted “Commission” for “Secretary of Agriculture”.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 207(c) of Pub. L. 102-546 provided that: “The amendments made by this section [amending this section and sections 6f, 6g, 12a, and 13a-2 of this title] shall become effective one hundred and eighty days after the date of enactment of this Act [Oct. 28, 1992], and the Commodity Futures Trading Commission shall issue any regulations necessary to implement the amendments made by this section no later than one hundred and eighty days after the date of enactment of this Act.”

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

§ 6f. Registration and financial requirements; risk assessment

(a) Registration of futures commission merchants, introducing brokers, and floor brokers and traders

(1) Any person desiring to register as a futures commission merchant, introducing broker, floor

broker, or floor trader hereunder shall be registered upon application to the Commission. The application shall be made in such form and manner as prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged, including in the case of an application of a futures commission merchant or an introducing broker, the names and addresses of the managers of all branch offices, and the names of such officers and partners, if a partnership, and of such officers, directors, and stockholders, if a corporation, as the Commission may direct. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to such person's business as the Commission may require. Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked pursuant to the provisions of this chapter.

(2) Notwithstanding paragraph (1), and except as provided in paragraph (3), any broker or dealer that is registered with the Securities and Exchange Commission shall be registered as a futures commission merchant or introducing broker, as applicable, if—

(A) the broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products;

(B) the broker or dealer files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors;

(C) the registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(D) the broker or dealer is a member of a national securities association registered pursuant to section 78o-3(a) of title 15.

The registration shall be effective contemporaneously with the submission of notice, in written or electronic form, to the Commission.

(3) A floor broker or floor trader shall be exempt from the registration requirements of section 6e of this title and paragraph (1) of this subsection if—

(A) the floor broker or floor trader is a broker or dealer registered with the Securities and Exchange Commission;

(B) the floor broker or floor trader limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market to security futures products; and